

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

ROY HARNESS, ET AL.

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:17cv791-DPJ-FKB

**DELBERT HOSEMANN,
Secretary of State of Mississippi**

DEFENDANT

**PLAINTIFFS' RESPONSES TO
SECRETARY HOSEMANN'S FIRST SET OF
INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS TO PLAINTIFFS**

Plaintiffs respond as follows:

INTERROGATORIES

INTERROGATORY NO. 1: Identify all persons or entities who have discoverable knowledge of facts regarding your claims asserted in this lawsuit and provide a brief summary of what you believe that discoverable knowledge to be.

RESPONSE: The Plaintiffs' experts; Kevin Lackey, AOC, who can testify to the AOC spreadsheet; the Plaintiffs, who know about their convictions; people who are familiar with the contents of the case file in Cotton v. Fordice; and unknown people in the Secretary of State's office who might have information regarding which crimes that office considers to be disfranchising.

INTERROGATORY NO. 2: Identify the name, address and telephone number of each person you will or may call as a lay witness at trial, and provide a brief summary of the facts upon which each such witness is expected to testify.

RESPONSE: Although a witness list is not required at this time, it is possible

the Plaintiffs' witnesses will include Kevin Lackey, AOC, who can testify to the AOC spreadsheet; the Plaintiffs, who can testify about their convictions; someone (although no one has been identified) who can testify about the contents of the case file in Cotton v. Fordice; and possibly someone from the Secretary of State's office.

INTERROGATORY NO. 3: If you allege or believe that the defendant or any of his officers, agents, members, managers, employees, representatives, or attorneys have made any admissions within the meaning of Rule 801(d)(2) of the Federal Rules of Evidence, describe each such admission, including the date and contents of each alleged admission, the name of the person who made the alleged admission, and identify any witnesses to any such alleged admission.

RESPONSE: None.

INTERROGATORY NO. 4: If you are aware of the existence of any written or recorded statements, affidavits, or declarations made by or for any party witness in this lawsuit, for each such statement, affidavit, or declaration, state the name of each person making the statement, affidavit, or declaration, the name, employer, occupation and last known address of the person or persons taking the statement, affidavit, or declaration, and the name and last known address of the person now in possession of the original statement, affidavit, or declaration, or a copy of it.

RESPONSE: None other than expert reports.

INTERROGATORY NO. 5: Identify each document you will or may submit to the Court in conjunction with any dispositive motion(s) or motion(s) for injunctive relief in this lawsuit, or offer into evidence or use as demonstrative evidence, at the trial of this lawsuit.

RESPONSE: Although no exhibit list is required at this time for documents to be submitted with motions or at trial, the documents that might be used include those listed in the Plaintiffs' initial disclosures, in the Plaintiffs' expert reports, in the Plaintiff's complaint, and in these discovery responses.

INTERROGATORY NO. 6: Identify your full name, current residence address, telephone number(s), social security number, and current or former inmate number(s), if any, assigned to you by the Mississippi Department of Corrections.

RESPONSE:

Roy Chester Harness. 5880 Ridgewood Road, Apt. 177, Jackson MS 39211. He does not recall his former MDOC number.

Kamal Karriem, Jr.. 1516 15th Avenue North, Columbus MS 39701. His former MDOC number is 116389.

Social security numbers are not provided since they are sensitive information.

Telephone numbers are not provided since any effort to contact the Plaintiffs should go through counsel.

INTERROGATORY NO. 7: Identify each instance for which you have been convicted by a Mississippi court for any felony crime(s), and for each instance identified, specifically list the code or statute section(s) under which you were convicted, the trial court where you were convicted, the date of conviction, and the sentence imposed.

RESPONSE: Roy Harness was convicted of forgery in the Circuit Court of Piek County. The remaining details are contained the document being produced in conjunction with these responses. He does not recall his MDOC number.

Kamal Karriem Jr. was convicted of embezzlement under Miss. Code Ann.

§97-11-31 in the Circuit Court of Lowndes County on November 21, 2005. Mr. Karriem was sentenced to 10 years imprisonment with 10 years suspended; 5 years probation; \$106.03 in restitution; a fine; and court costs. His probation subsequently was revoked and he was sentenced to serve the full ten year term.

INTERROGATORY NO. 8: For each conviction identified by you in response to Interrogatory No. 7, specifically identify which conviction(s) you contend disqualify you as an eligible Mississippi elector pursuant to Section 241 of the Mississippi Constitution, or otherwise under Mississippi law.

RESPONSE: The convictions just identified.

INTERROGATORY NO. 9: Identify all documents, including, but not limited to, any articles, treatises, or other tangible items, considered by any expert witness designated by you in this lawsuit in formulating his or her expert report(s).

RESPONSE: All items mentioned in the expert reports.

REQUESTS FOR PRODUCTION

REQUEST NO. 1: A copy of each and every document you will or may submit to the Court in conjunction with any dispositive motion(s) or motion(s) for injunctive relief in this lawsuit, or offer into evidence or use as demonstrative evidence, at the trial of this lawsuit.

RESPONSE: All of those have been produced or are already in the possession of the Defendant. To the extent the Defendant believes that something has not been produced or is not in his possession, he may identify it and the Plaintiffs will provide it if they have it.

REQUEST NO. 2: A copy of all documents or other items identified by you in

your responses to any interrogatories propounded to you in this matter, or relied upon by you in formulating any interrogatories propounded to you in this matter.

RESPONSE: The Plaintiffs are providing the most recent AOC spreadsheet of criminal dispositions that they have received from the AOC. It covers dispositions from 1994 through December of 2017. This is the spreadsheet that their expert, Matt Williams, used as the basis for his statistical analysis. (In addition, the Plaintiffs are providing a separate listing for Jeff Davis County, which was provided to us by the AOC. As explained by the AOC, the Jeff Davis data was kept by that county in a different format from the data provided by the other counties and therefore was not included in the larger AOC spreadsheet. Because the Jeff Davis format did not lend itself to the analysis conducted by Mr. Williams, and because the numbers were so small they would make little difference in the outcome, the Jeff Davis data was not included in Mr. Williams' analysis). They are also providing a page from the state court file that reflects Mr. Harness's conviction. All other documents have been produced. To the extent the Defendant believes that something has not been produced, he may identify it and the Plaintiffs will provide it if they have it.

REQUEST NO. 3: A copy of all documents supporting any alleged facts relied upon and/or opinions asserted by any expert witness whom you will or may call at the trial of this lawsuit.

RESPONSE: All of those have been produced. To the extent the Defendant believes that something has not been produced, he may identify it and the Plaintiffs will provide it if they have it.

REQUEST NO. 4: A copy of all documents exchanged between you and each

expert witness whom you will or may call at the trial of this lawsuit which reflect communications that: relate to compensation for the expert's study or testimony, identify facts or data that any plaintiff's attorney provided and that the expert considered in forming the opinions to be expressed, and/or identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

RESPONSE: Attorney McDuff provided the following documents and items to expert Robby Lockett:

- * The complaint in this case.
- * The book *Living in Infamy* by Pippa Holloway
- * The Mississippi Supreme Court decision in Ratliff v. Beale
- * The Fifth Circuit decision in Cotton v. Fordice
- * The list of Clarion-Ledger articles and copies of the articles relating to

Mississippi constitutional amendments in 1950 and 1968

- * The legislative resolutions and copies of the ballots regarding the 1950 and 1968 amendments to Section 241

- * The law review article by Prof. Gabriel J. Chin that is cited in the complaint in this case. A copy of that is being provided with these responses.

Mr. McDuff provided Matt Williams with the AOC spreadsheet showing criminal dispositions from 1994 through December 2017 and the separate Jeff Davis County data mentioned earlier in these responses. A copy of these are being provided with these responses. Mr. McDuff also provided Mr. Williams with certain documents from the Secretary of State's office that had been provided to Mr. McDuff by defense counsel.

Included with these responses is a May 16, 2018 email from Mr. McDuff to Mr. Williams transmitting these documents.

All documents not provided with these responses are already in the possession of defense counsel.

REQUEST NO. 5: A copy of all documents, including, but not limited to, any articles, treatises, or other tangible items, cited in any expert witness reports produced by you in this lawsuit.

RESPONSE: All of those have been produced or are already in the possession of the Defendant. To the extent the Defendant believes that something has not been produced or is not in his possession, he may identify it and the Plaintiffs will provide it if they have it.

REQUEST NO. 6: A copy of all declarations, affidavits, sworn statements, or other testimony generated for or by, or executed by, any person or entity identified by you as having discoverable knowledge that relates in any way to this lawsuit, or any of the matters, claims, and/or factual allegations set forth in your complaint.

RESPONSE: None except the expert reports.

REQUEST NO. 7: A copy of each and every document you have obtained pursuant to any subpoena duces tecum issued in this lawsuit.

RESPONSE: None.

REQUEST NO. 8: A copy of each and every document evidencing any formal or informal public records request submitted by you or your counsel since January 1, 2014 to any government official or entity seeking information related to felon disenfranchisement in Mississippi, or any matters related to the allegations in your

complaint.

RESPONSE: A request for information to the AOC was made by telephone and in person, but not in writing. A written public records act request was made to the Secretary of State's office. Defense counsel already has a copy of that.

REQUEST NO. 9: A copy of each and every document obtained by you or your counsel from any governmental official or entity since January 1, 2014 pursuant to any formal or informal public records request for information related to felon disenfranchisement in Mississippi, or any matters related to the allegations in your complaint.

RESPONSE: Two AOC spreadsheets were obtained. One was an updated version of the other. Both have been provided to defense counsel at different times, with the second being provided with these responses. Also, the AOC provided a separate Jeff Davis County database at the same time as the second AOC spreadsheet. The Jeff Davis document is being provided with these responses. Also defense counsel provided some documents from the Secretary of State's office pursuant to a request from the undersigned.

REQUEST NO. 10: A copy of each document generated after February 22, 2017 evidencing any communication between you and anyone identified by you in your initial disclosures, or responses to other written discovery in this matter, as a person or entity who may have discoverable information relevant to the parties' claims and defenses in this lawsuit. This request excludes any documents evidencing privileged communications between the plaintiffs and their counsel, and communications between counsel for the plaintiffs.

RESPONSE: There were some emails between counsel and the experts but those are not discoverable (except for a May 16, 2018 email to Matt Williams that is being disclosed). The undersigned sent some emails to Kevin Lackey and a data person in his office regarding data the AOC had with respect to criminal convictions. If you wish to obtain those in discovery, please inform the undersigned so he can gather and review them.

REQUEST NO. 11: A copy of each document identified in your complaint.

RESPONSE: Those are being provided or already have been provided or are otherwise in defense counsel's possession.

REQUEST NO. 12: A copy of each formal or informal request for a formal or informal opinion, if any, submitted by you, or anyone acting on your behalf, to the Mississippi Attorney General's Office regarding felon disenfranchisement.

RESPONSE: None.

Respectfully submitted,

s/ Beth L. Orlansky

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CERTIFICATE OF SERVICE

I, Robert B. McDuff, hereby certify that on July 11, 2018 I served the foregoing by email and hand delivery upon counsel for the Defendant.

s/Robert B. McDuff
Robert B. McDuff